

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RAYMOND WEST

Petitioner,

v.

NANCY GIROUX, *et al.*

Respondents.

KATE BARKMAN, Clerk
Dep. Clerk

FILED

OCT 10 2017

CIVIL ACTION NO. 16-1185

ORDER

AND NOW, this 10th day of October 2017, upon careful and independent consideration of the Petition for Writ of Habeas Corpus, and all related filings, and upon review of the Report and Recommendation ("R&R") of United States Magistrate Judge David R. Strawbridge, to which no objections have been filed, it is hereby **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**¹;
2. The Petition for Writ of Habeas Corpus is **DISMISSED WITH PREJUDICE** and without an evidentiary hearing;
3. There is no probable cause to issue a certificate of appealability²; and
4. The Clerk of Court is directed to **CLOSE** the case.

It is so **ORDERED**.
ENTERED

OCT 11 2017
CLERK OF COURT

BY THE COURT:


CYNTHIA M. RUFÉ, J.

¹ As set forth in the R&R, Raymond West did not exhaust the remedies available in the state court, as he filed here while the PCRA petition was pending, and the several years it took to resolve the PCRA petition was not so extreme as to excuse the failure to exhaust. After the PCRA petition was dismissed on February 17, 2017, Mr. West did not appeal to the Pennsylvania Superior Court. More importantly, the petition in this Court is untimely, having been filed nearly five years late (Mr. West's apparent status as a fugitive meant he failed to pursue direct appeals or to file a timely petition in federal court, and he did not promptly pursue his rights once in custody).

² There is no basis for concluding that "reasonable jurists could debate whether . . . the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (internal citation omitted).